

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

UNITED STATES OF AMERICA §
§
v. § **CRIMINAL NO. 1:09-CR-20-MAC-KFG**
§
JAMES ALBERT HOPKINS §

**REPORT & RECOMMENDATION OF
UNITED STATES MAGISTRATE JUDGE**

On August 27, 2013 the Court conducted a hearing to consider the government's petition to revoke the supervised release of Defendant James Albert Hopkins. The government was represented by Jim Noble, Assistant United States Attorney for the Eastern District of Texas, and Defendant was represented by Wayne Dickey.

Defendant originally pled guilty to the offense of Felon in Possession of a Firearm, a Class C felony. The offense carried a statutory maximum imprisonment term of 10 years. The United States Sentencing Guideline range, based on a total offense level of 12 and a criminal history category of III, was 15 to 21 months. District Judge Marcia A. Crone sentenced Defendant to 21 months imprisonment followed by 3 years of supervised release subject to the standard conditions of release, plus special conditions to include financial disclosures and substance abuse testing and treatment. On November 25, 2011, Defendant completed the term of imprisonment and began his term of supervised release.

In relevant part, the government alleges in its petition that Defendant violated his terms of supervised release on May 25, 2013 when he was arrested for the offense of Driving While Intoxicated, Second Offense.

Under the terms of supervised release, Defendant was required, in relevant part, to not commit another federal, state, or local crime. If the Court finds by a preponderance of the evidence that Defendant violated the conditions of his supervised release by Driving While Intoxicated, Second Offense, Defendant will have committed a Grade C violation. U.S.S.G. § 7B1.1(a). Upon a finding of a Grade C violation, the Court may: (A) revoke probation or supervised release; or (B) extend the term of probation or supervised release and/or modify the conditions of supervision. U.S.S.G. § 7B1.3(a)(2). Considering Defendant's criminal history category of III, the Guideline imprisonment range for a Grade C violation is 5 to 11 months. U.S.S.G. § 7B1.4(a).

At the hearing, the parties indicated they had come to an agreement to resolve the petition whereby Defendant would plead true to the government's petition. In exchange, the government agreed to recommend that Defendant serve 30 days, to run consecutively with Smith County Case No. 001-82303-13, with no supervised release to follow.

Pursuant to the Sentencing Reform Act of 1984, and the agreement of the parties, the Court **RECOMMENDS** that James Albert Hopkins be committed to the custody of the Bureau of Prisons for a term of imprisonment of 30 days to run consecutively with Smith County Case No. 001-82303-13, with no supervised release to follow.

Defendant has waived his right to object to the findings of the Magistrate Judge in this matter so the Court will present this Report and Recommendation to District Judge Marcia A. Crone for adoption immediately upon issuance.

So ORDERED and SIGNED this 28th day of August, 2013.



JOHN D. LOVE
UNITED STATES MAGISTRATE JUDGE